

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ALFREDO ORTA	§	
VS.	§	CIVIL ACTION NO. 1:20cv506
F.J. GARRIDO	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Alfredo Orta, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the petition be dismissed without prejudice for failure to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections.

Petitioner states the Bureau of Prisons has failed to give him credit towards his sentence based upon his taking a course in recidivism reduction training. He contends he is entitled to this credit under 18 U.S.C. § 3632(d)(4)(A). Petitioner states he should not be required to exhaust his administrative remedies in this situation because attempting to do so would be futile.

As a general matter, federal prisoners must exhaust administrative remedies before seeking habeas relief under Section 2241. *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994). Exceptions to the exhaustion requirement apply only in “extraordinary circumstances” when administrative remedies are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action.” *Id.*


Petitioner does not contend he has completed the administrative remedy process that is available to him. While he asserts that completing the process would be futile, he provides no

evidence in support of his assertion. He has failed to explain why the Bureau would not consider his request for administrative remedy in good faith and correct any error it has made in calculating his sentence. Petitioner's objections are therefore without merit.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED this the **9** day of **February, 2021**.


Thad Heartfield
United States District Judge